Case3:05-cv-02641-JSW Document141 Filed09/28/07 Page1 of 3 CHRISTOPHER COOKE, CA Bar #142342 1 STEPHEN S. WU, CA Bar # 205091 2 COOKE KOBRICK & WU LLP 177 Bovet Road, Suite 600 3 San Mateo, CA 94402 Email: ccooke@ckwlaw.com 4 swu@ckwlaw.com Tel: (650) 638-2370 5 Fax: (650) 341-1395 Attorneys for Mei-Fang Lisa Zhang, 6 Bay Area Affordable Housing LLC, Xue-Huan Gao, Yang-Chun Zhang, 7 Carol Jian Deng, and Hao Liang 8 9 UNITED STATES DISTRICT COURT 10 NORTHERN DISTRICT OF CALIFORNIA 11 SAN FRANCISCO DIVISION 12 13 U.S. COMMODITY FUTURES TRADING Case No.: 05-cv-02641-JSW 14 COMMISSION et al., **ADMINISTRATIVE MOTION TO** 15 **CONSIDER WHETHER CASES** SHOULD BE RELATED Plaintiffs, 16 VS. 17 NATIONAL INVESTMENT 18 CONSULTANTS, INC., at al., 19 Defendants, 20 and 21 THERESA C. WONG, an individual, 22 23 Relief Defendant. 24 25 26 Pursuant to Local Rule 3-12, Mei-Fang Lisa Zhang, Bay Area Affordable Housing LLC, 27

Xue-Huan Gao, Yang-Chun Zhang, Carol Jian Deng, and Hao Liang move this Court for an

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order stating that this case is related to another action they recently filed in this Court and in support thereof, state as follows:

- 1. On September 24, 2007, Mei-Fang Lisa Zhang, Bay Area Affordable Housing LLC, Xue-Huan Gao, Yang-Chun Zhang, Carol Jian Deng, and Hao Liang filed an action in this Court captioned *Mei-Fang Lisa Zhang et al. v. Wei-Man Raymond Tse et al.*, No. C 07-04946 WHA. The case has been assigned to Judge Alsup. *Zhang v. Tse* is an action, both in law and in equity, brought by victims of commodities fraud under the Racketeer Influenced Corrupt Organization Act ("RICO") and the Commodity Exchange Act ("CEA"). In their Complaint, Plaintiffs in that case state that they are individuals who invested large sums of money with Defendants for foreign currency futures trading, but Defendants' businesses were wholly fraudulent, and Defendants stole Plaintiffs' investments.
- 2. On June 28, 2005, the U.S. Commodity Futures Trading Commission and the Commissioner of Corporations for the State of California filed this action (the "CFTC Action") against many of the Defendants named in *Zhang v. Tse* seeking injunctive and other equitable relief under the CEA and California Corporations Code Sections 29250 and 29536. The CFTC Action Complaint alleged that the defendants in this case engaged in commodities fraud, including misrepresentations and sale of illegal off-exchange futures contracts.
- 3. The CFTC and State of California ultimately settled with the defendants in this case, and the defendants consented to the entry of a Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants Pacific Best Group Ltd., National Investment Consultants, Inc., Wei Man Tse, Run Ping Zhou, Yi Kerry Xu, and Relief Defendant Theresa Wong ("Consent Order"). The Court entered the Consent Order on September 1, 2006.
 - 4. Plaintiffs in *Zhang v. Tse* are victims of the conduct alleged in the CFTC Action.
- 5. Defendants in in *Zhang v. Tse* include South China Investment Inc., Pacific Best Group Ltd. (a.k.a. Pacific Best Company Ltd.), Wei-Man Raymond Tse, Run Ping Zhou (a.k.a. Flora Zhou), Theresa Wong, all of whom were also defendants in the CFTC Action.
- 6. Therefore, in *Zhang v. Tse* and the CFTC Action concern substantially the same parties.

- 7. The CFTC alleged that since at least March 2004, defendants in this case solicited and accepted at least \$182,500 from at least five known retail investors to engage in speculative trading of illegal off-exchange foreign currency futures contracts, and investors lost almost all of The CFTC said that the defendants cheated, defrauded, and deceived customers by misrepresentations and failures to disclose material information in connection with foreign currency futures transactions.
- 8. As in the CFTC Action, plaintiffs in Zhang v. Tse contend that the defendants therein engaged in commodities fraud since at least 2003, including misrepresentations and sale of illegal off-exchange futures contracts. Plaintiffs say that defendants accepted their money to engage in speculative trading of illegal off-exchange foreign currency futures contracts, and plaintiffs lost all of their investments. Moreover, plaintiffs state that defendants cheated, defrauded, and deceived customers by, among other things, misrepresentations and failures to disclose material information in connection with foreign currency futures transactions.
- 9. Accordingly, in Zhang v. Tse and the CFTC Action concern substantially the same events.

For the foregoing reasons, Mei-Fang Lisa Zhang, Bay Area Affordable Housing LLC, Xue-Huan Gao, Yang-Chun Zhang, Carol Jian Deng, and Hao Liang respectfully request that the Court determine that *Zhang v. Tse* and this action are related cases, pursuant to Local Rule 3-12.

Dated: September 28, 2007

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Respectfully Submitted,

COOKE, KOBRICK, & WU LLP

By:

STEPHEN S. WU Attorneys for Plaintiffs In Zhang v. Tse